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Patrick N. Nelson

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EXAMINER

JONES, HEATHER RAE

ART UNIT

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2621

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,490	<b>Applicant(s)</b> NELSON, PATRICK N.	
	<b>Examiner</b> HEATHER R. JONES	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/9/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/19/08, 2/27/09</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-4 and 7-57 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 42-51 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 42-51 define a tangible storage medium embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). That is, the scope of the presently claimed tangible storage medium can range from paper on which the program is written. Furthermore, Claims 42-51 define a modulated data signal with descriptive material. While "functional descriptive material" may be claimed as a statutory product (i.e., a "manufacture") when embodied on a tangible computer readable medium, a modulated data signal embodying that same functional descriptive material is neither a process nor a product (i.e., a tangible "thing") and therefore does not fall within one of the four

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statutory classes of § 101. Rather, “signal” is a form of energy, in the absence of any physical structure or tangible material. The Examiner recommends deleting from paragraph [0019] of the specification the part about the “modulated data signal” and then claiming “a computer-readable medium”.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 7-12, 15-19, 32-35, 37, 38, 40, 42-46, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramanian et al. (U.S. Patent 2005/0018775) in view of Griffiths (U.S. Patent 6,262,776).

Regarding claim 1, Subramanian et al. discloses a method comprising: determining whether at least one sample of a presentation is processed by a first component of a pipeline at an expected time (paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value); and requesting a second component of the pipeline to alter the manner in which the second component processes a portion of the presentation if the at least one sample is not processed at the expected time (paragraph [0049] – if the PTS value and the STC value differ by more than a predetermined threshold, the video decoder drops the B-picture without decoding). However, Subramanian et

al. fails to disclose that wherein the portion of the presentation comprises a succeeding sample to the at least one sample is being altered.

Referring to the Griffiths reference, Griffiths discloses a method comprising: determining whether at least one sample of a presentation is processed by a first component of a pipeline at an expected time; and wherein requesting a second component of the pipeline to alter the manner in which the second component processes the portion of the presentation comprising a succeeding sample to the at least one sample (Fig. 11 – the next sample is altered).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have altered the succeeding sample in the presentation as disclosed by Griffiths in the method disclosed by Subramanian et al. in order to display the samples at the correct times as well as to maintain a synchronization between audio and video data.

Regarding claim **2**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the first component comprises a media sink (Subramanian et al.: paragraph [0049] – media sink – comparing the PTS value with the STC value).

Regarding claim **3**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the second component comprises a codec (Subramanian et al.: paragraph [0049] – the decoder drops the B-picture therefore, altering the manner in which the decoder processes the signal).

Regarding claim **4**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the first component comprises a media sink and the second component comprises a codec (Subramanian et al.: paragraph [0049] – media sink – comparing the PTS value with the STC value; the decoder drops the B-picture therefore, altering the manner in which the decoder processes the signal).

Regarding claim **7**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the portion of the presentation comprises a frame (Subramanian et al.: paragraph [0049] – one B-picture is a frame).

Regarding claim **8**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that determining whether the at least one sample is processed at the expected time comprises comparing a timing value in the at least one sample to a predetermined time frame associated with the presentation (Subramanian et al.: paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value).

Regarding claim **9**, Subramanian et al. discloses all the limitations as previously discussed with respect to claim 1 including that determining whether the at least one sample is processed at the expected time comprises comparing a timing value in the at least one sample to a presentation clock (Subramanian et

al.: paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value).

Regarding claim **10**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that determining whether the at least one sample is processed at the expected time comprises determining whether a timing value in the at least one sample was processed by the first component at the time specified by the timing value (Subramanian et al.: paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value).

Regarding claim **11**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that determining whether the at least one sample is processed at the expected time comprises determining whether a timing value in the at least one sample was processed by the first component within a given time of a time specified by the timing value (Subramanian et al.: paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value).

Regarding claim **12**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the at least one sample comprises a first sample and a second sample and wherein determining whether the at least one sample is processed at the expected time comprises determining if the first sample is processed by the first component at a first expected time and determining if the second sample is processed by the first

component at a second expected time (Subramanian et al.: paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value and is processed if the PTS value and the STC value differ by less than a predetermined threshold).

Regarding claim **15**, Subramanian et al. discloses all the limitations as previously discussed with respect to claim 1 including that altering the manner in which the second component processes a portion the presentation comprises dropping the succeeding sample (Griffits: Fig. 11 – the next sample is altered).

Regarding claim **16**, Subramanian et al. in view of Griffits discloses all the limitations as previously discussed with respect to claim 1 including that the portion of the presentation comprises a plurality of frames, altering the manner in which the second component processes the portion of the presentation comprises dropping a subset of the plurality of frames, wherein the subset comprises two or more frames (Griffits: Fig. 11).

Regarding claim **17**, Subramanian et al. in view of Griffits discloses all the limitations as previously discussed with respect to claim 1 including that the first component is a media sink, the second component is a codec, and the wherein altering the manner in which the second component processes a portion of the presentation comprises dropping at least one frame of the presentation (Subramanian et al.: paragraph [0049] – the presentation time stamp for every B-picture is compared to the system time clock value – media sink; if the PTS value



and the STC value differ by more than a predetermined threshold, the video decoder drops the B-picture without decoding).

Regarding claim **18**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the pipeline comprises a media source, a media sink, and a topology of media processing nodes; the first component is a node in the topology; and the second component is the media sink (Subramanian et al.: paragraph [0049] – the presentation time stamp for every B-picture is compared to the system time clock value – media sink; if the PTS value and the STC value differ by more than a predetermined threshold, the video decoder drops the B-picture without decoding).

Regarding claim **19**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the pipeline comprises a media source, a media sink, and a topology of media processing nodes; the first component is a node in the topology including a codec; and the second component is the media sink (Subramanian et al.: paragraph [0049] – the presentation time stamp for every B-picture is compared to the system time clock value – media sink; if the PTS value and the STC value differ by more than a predetermined threshold, the video decoder drops the B-picture without decoding).

Regarding claims **32-35, 37, 38, and 40**, these are apparatus claims corresponding to the method claims 1-4 and 15-17. Therefore, claims 32-35, 37,

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38, and 40 are analyzed and rejected as previously discussed with respect to claims 1-4 and 15-17.

Regarding claims **42-46**, these are processor-readable medium claims corresponding to the method claims 1-4, 8, and 15. Therefore, claims 42-46 are analyzed and rejected as previously discussed with respect to claims 1-4, 8, and 15.

Regarding claim **52**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1 including that the at least one sample comprises a first and second sample; and wherein the portion of the presentation comprises a third sample and a fourth sample (Griffits: Fig. 11).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13, 14, 36, 39, 47-51, 53, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramanian et al. in view of Griffiths as applied to claim 1 above, and further in view of Ogier (U.S. Patent Application Publication 2003/0095504).

Regarding claim **13**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1, discloses

comparing the presentation time stamp for every B-picture is compared to the system time clock value (Subramanian et al.: paragraph [0049]), but fails to disclose that the at least one sample comprises a first sample and a second sample and wherein determining whether the at least one sample is processed at the expected time comprises: determining a first timing error as a difference between a time at which the first sample is processed by the first component and a time at which the first sample is expected to be processed; determining a second timing error as a difference between a time at which the second sample is processed by the first component and a time at which the first sample is expected to be processed; and determining if the second timing error is greater than the first timing error.

Referring to the Ogier reference, Ogier discloses a method comprising monitoring network congestion using ongoing statistical measurements (paragraph [0332]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have monitored network congestion using ongoing statistical measurements as disclosed by Ogier in the method disclosed by Subramanian et al. in view of Griffiths in order to monitor network congestion and either alerting the user of the congestion or to change the processing of the data in order to accommodate for the network traffic. By maintaining statistical data Subramanian would be comparing one sample to the next to determine network congestion.

Regarding claim **14**, Subramanian et al. in view of Griffiths discloses all the limitations as previously discussed with respect to claim 1, discloses comparing the presentation time stamp for every B-picture is compared to the system time clock value (Subramanian et al.: paragraph [0049]), but fails to disclose that at least one sample comprises a first sample comprising an associated first timing value and a second sample comprising an associated second timing value and wherein determining whether the at least one sample is processed at the expected time comprises determining whether the first timing value more closely corresponds to a time at which the first sample is processed by the first component than the second timing value corresponds to a time at which the second sample is processed by the first component.

Referring to the Ogier reference, Ogier discloses a method comprising monitoring network congestion using ongoing statistical measurements (paragraph [0332]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have monitored network congestion using ongoing statistical measurements as disclosed by Ogier in the method disclosed by Subramanian et al. in view of Griffiths in order to monitor network congestion and either alerting the user of the congestion or to change the processing of the data in order to accommodate for the network traffic. By maintaining statistical data Subramanian would be comparing one sample to the next to determine network congestion.

Regarding claims **36, 39, and 41**, these are apparatus claims corresponding to the method claims 13 and 14. Therefore, claims 36, 39, and 41 are analyzed and rejected as previously discussed with respect to claims 13 and 14.

Regarding claims **47-51**, these are processor-readable medium claims corresponding to the method claims 1-4, 8, 13, and 15. Therefore, claims 47-51 are analyzed and rejected as previously discussed with respect to claims 1-4, 8, 13, and 15.

Regarding claim **53**, Subramanian et al. in view of Griffiths in view of Ogier discloses all the limitations as previously discussed with respect to claims 1 and 13, including that the method further comprises: if the second timing error is said determined to be greater than the first timing error, further requesting the second component of the pipeline to alter the manner in which the second component processes the portion of the presentation, wherein the portion of the presentation comprises two or more succeeding samples to the at least one sample (Griffits: Fig. 11).

Regarding claim **54**, Subramanian et al. in view of Griffiths in view of Ogier discloses all the limitations as previously discussed with respect to claims 1, 13, and 53 including that the two or more succeeding samples to the at least one sample are not consecutive samples (Griffits: Fig. 11, step 475 - all B frames are dropped regardless of where they are).

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7. Claims 20-31 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramanian et al. (U.S. Patent 2005/0018775) in view of Ogier (U.S. Patent Application Publication 2003/0095504) in view of Griffiths (U.S. Patent 6,262,776).

Regarding claim **20**, Subramanian et al. discloses a method comprising: determining if timeliness of sample processing in a multi-component pipeline is degrading, the determination being made based on processing times of a first sample and a second sample of a presentation individually (paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value); altering the manner in which a component in the multi-component pipeline processes the a portion of the presentation if the timeliness of the sample processing is said to be degrading (paragraph [0049] – if the PTS value and the STC value differ by more than a predetermined threshold, the video decoder drops the B-picture without decoding). However, Subramanian et al. fails to disclose comparing the processing times of a first sample and a second sample of the presentation and wherein the portion comprises one or more succeeding samples to one or more of the first and second sample.

Referring to the Ogier reference, Ogier discloses a method comprising monitoring network congestion using ongoing statistical measurements (paragraph [0332]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have monitored network congestion using

ongoing statistical measurements as disclosed by Ogier in the method disclosed by Subramanian et al. in order to monitor network congestion and either alerting the user of the congestion or to change the processing of the data in order to accommodate for the network traffic. By maintaining statistical data Subramanian would be comparing one sample to the next to determine network congestion, thereby dropping samples when necessary. However, Subramanian et al. in view of Ogier still fail to disclose that wherein the portion comprises one or more succeeding samples to one or more of the first and second sample.

Referring to the Griffiths reference, Griffiths discloses a method comprising: determining whether at least one sample of a presentation is processed by a first component of a pipeline at an expected time; and wherein requesting a second component of the pipeline to alter the manner in which the second component processes the portion of the presentation comprising one or more succeeding samples to one or more of the first and second sample. (Fig. 11 – the next sample is altered).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have altered the succeeding sample in the presentation as disclosed by Griffiths in the method disclosed by Subramanian et al. in view of Ogier in order to display the samples at the correct times as well as to maintain a synchronization between audio and video data.

Regarding claim **21**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20

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including that the processing times of the first and the second samples are determined relative to a single component in the pipeline (Subramanian et al.: paragraph [0049]).

Regarding claim **22**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the processing times of the first sample is determined relative to a first component in the multi-component pipeline and the processing times of the second sample is determined relative to a second component in the multi-component pipeline (Subramanian et al.: paragraph [0049]; Ogier: paragraph [0332]).

Regarding claim **23**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the processing times of the first and the second samples are determined using timing information in the first and second samples (paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value).

Regarding claim **24**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the processing times of the first and the second samples are determined using timing information in the first and second samples and a presentation clock (paragraph [0049] - the presentation time stamp for every B-picture is compared to the system time clock value).



Regarding claim **25**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the timeliness of the sample processing is determined based on: a first timing difference between a time specified in a timing value in the first sample and a time that the first sample is processed by the component in the multi-component pipeline; a second timing difference between a time specified by a timing value in the second sample and a time that the second sample is processed by the component in the multi-component pipeline (Subramanian et al.: paragraph [0049]; Ogier: paragraph [0332]).

Regarding claim **26**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the timeliness of the sample processing is determined based on: a first timing difference between a time specified in a timing value in the first sample and a time that the first sample is processed by a first component in the multi-component pipeline; a second timing difference between a time specified by a timing value in the second sample and a time that the second sample is processed by a second component in the multi-component pipeline (Subramanian et al.: paragraph [0049]; Ogier: paragraph [0332]).

Regarding claim **27**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the timeliness of the sample processing is determined by: determining a first timing difference between a time specified in a timing value in

the first sample and a time that the first sample is processed by the component in the multi-component pipeline; determining a second timing difference between a time specified by a timing value in the second sample and a time that the second sample is processed by the component in the multi-component pipeline, wherein the second sample is processed at a later time than the first sample; and determining that timeliness of sample processing is degrading if the second timing difference is greater than the first timing difference (Subramanian et al.: paragraph [0049]; Ogier: paragraph [0332]).

Regarding claim **28**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20 including that the timeliness of the sample processing is determined by: determining a first timing difference between a time specified in a timing value in the first sample and a time that the first sample is processed by a selected component in the multi-component pipeline; determining a second timing difference between a time specified by a timing value in the second sample and a time the second sample is processed by the selected component, wherein the second sample is processed at a later time than the first sample; and determining that timeliness of sample processing is degrading if the second timing difference is greater than the first timing difference (Subramanian et al.: paragraph [0049]; Ogier: paragraph [0332]).

Regarding claim **29**, Subramanian et al. in view of Ogier in view of Griffiths discloses all the limitations as previously discussed with respect to claim 20

including that altering the manner in which the component in the multi-component pipeline processes a portion of the presentation comprises instructing the component to drop the one or more succeeding samples (Griffits: Fig. 11).

Regarding claim **30**, Subramanian et al. in view of Ogier in view of Griffits discloses all the limitations as previously discussed with respect to claim 20 including that altering the manner in which the component in the multi-component pipeline processes the portion of the presentation comprises instructing the component to drop each sample in a frame of the presentation (Subramanian et al.: paragraph [0049] – if the PTS value and the STC value differ by more than a predetermined threshold, the video decoder drops the B-picture without decoding).

Regarding claim **31**, Subramanian et al. in view of Ogier in view of Griffits discloses all the limitations as previously discussed with respect to claim 20 including that each component comprises processor executable instructions executed by a processor (Subramanian et al.: Fig. 2).

Regarding claim **55**, Subramanian et al. in view of Ogier in view of Griffits discloses all the limitations as previously discussed with respect to claim 20 including that the at least one sample comprises a first sample and a second sample; and wherein the portion of the presentation comprises a third sample and a fourth sample (Griffits: Fig. 11).

Regarding claim **56**, Subramanian et al. in view of Ogier in view of Griffits discloses all the limitations as previously discussed with respect to claims 20 and

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28 including that the method further comprises: if the timeliness of the sample processing is said determined to be degrading, further altering the manner in which the component processes the portion of the presentation, wherein the portion of the presentation comprises two or more succeeding samples to one or more of the first sample and the second sample (Griffits: Fig. 11).

Regarding claim 57, Subramanian et al. in view of Ogier in view of Griffits discloses all the limitations as previously discussed with respect to claims 20, 28, and 56 including that the two or more succeeding samples to the at least one sample are not consecutive samples (Griffits: Fig. 11, step 475 - all B frames are dropped regardless of where they are).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEATHER R. JONES whose telephone number is (571)272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Heather R Jones

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Examiner  
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HRJ  
March 28, 2009

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621